

ASSEMBLY BILL

No. 1416

Introduced by Committee on Insurance (Assembly Members Solorio (Chair), Hagman (Vice Chair), Carter, Feuer, Skinner, Torres, and Wieckowski)

March 21, 2011

An act to amend Sections 33.5, 137, 769.55, 769.82, 778.4, 827.8, 1071, 1073, 1625, 1625.5, 1625.55, 1627, 1635, 1649.5, 1661, 1662, 1665, 1675, 1676, 1679, 1686, 1693, 1704, 1705, 1707.51, 1707.7, 1712.5, 1725, 1728, 1729.5, 1730.5, 1730.6, 1735, 1735.5, 1747, 1749, 1749.2, 1749.33, 1749.4, 1749.8, 1749.85, 1750, 1750.5, 1751, 1751.3, 1755, 1757.2, 1758.2, 1758.3, 1758.87, 1758.98, 1765.3, 10236.1, 10785, 11691, 12815, and 12938 of, and to repeal Sections 1074 and 1680 of, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1416, as introduced, Committee on Insurance. Insurance omnibus.

(1) Existing law defines the fire and casualty broker-agent license as 2 insurance license types: property broker-agent licenses, for insurance coverage on the direct or consequential loss or damage to property of every kind, and casualty broker-agent licenses, for insurance coverage against legal liability, including for death, injury, disability, or damage to real or personal property.

This bill would remove references to fire and casualty broker-agent and substitute the terms property broker-agent and casualty broker-agent in order to make conforming changes.

(2) Existing law requires the Insurance Commissioner to publish certain information with regard to insurers admitted to do business in this state by means of newspapers, as provided.

This bill would instead require the commissioner to publish that information on the department's Internet Web site for 7 days.

(3) Existing law requires an insurer, in order to be admitted in this state to transact specified workers' compensation transactions, among other things, to deposit cash instruments or approved interest-bearing securities or approved stocks readily convertible into cash, investment certificates, or share accounts issued by a savings and loan association doing business in this state and insured by the Federal Deposit Insurance Corporation, certificates of deposit, or savings deposits in a bank licensed to do business in this state.

This bill would include as an authorized workers' compensation depository a bank that is either domiciled in and with its principal place of business in this state or is a national banking association with a trust office located in this state.

(4) Existing law, subject to certain exceptions, requires a nonresident applicant for an organizational insurance license to name at least one person from their home state who may exercise the power and perform the duties under their license. Additional persons endorsed to that license may be residents of another state, but may not be residents of California.

This bill would instead require a nonresident applicant for an organizational insurance license to name at least one person from a state other than California who may exercise the power and perform the duties under their license. The bill would also require that additional persons endorsed to that license may be residents of other states, including California.

(5) Existing law authorizes certain broker-agents to act as insurance solicitors.

This bill would include personal lines broker-agents and limited lines automobile insurance agents as those persons who can act as insurance solicitors, as provided.

(6) Existing law requires the Department of Insurance to make available for public inspection and publish on its Internet Web site, among other things, every adopted report of an examination of unfair or deceptive business practices that is adopted as filed, or as modified or corrected, by the commissioner, as provided. Existing law provides for transmittal of the adopted report by certified mail, a 10-day insurer comment period, and a 10-business day publication requirement, after the transmittal.

This bill would clarify that the published document would be a market conduct examination. The bill would authorize electronic transmittal

of the adopted report, as provided, provide for a 20-day insurer comment period, and require publication 20 business days after the transmittal.

(7) This bill would make technical, conforming, and related changes and delete obsolete provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 33.5 of the Insurance Code is amended
2 to read:

3 33.5. ~~“Fire and casualty broker-agent” means a person licensed~~
4 ~~pursuant to Section 1625.~~

5 (a) *“Casualty broker-agent” means a person licensed pursuant*
6 *to Section 1625.*

7 (b) *“Property broker-agent” means a person licensed pursuant*
8 *to Section 1625.*

9 SEC. 2. Section 137 of the Insurance Code is amended to read:

10 137. (a) No person, firm, association, or corporation shall act
11 or aid in any manner in soliciting, negotiating, or procuring liability
12 insurance in this state from a risk retention group unless that
13 person, firm, association, or corporation is licensed as a ~~fire and~~
14 ~~property broker-agent~~ or a casualty broker-agent in accordance
15 with Chapter 5 (commencing with Section 1621) of Part 2 and is
16 authorized to act as an insurance broker; except salaried employees
17 or officers of a risk retention group, provided no part of the
18 compensation of such person is on a commission basis or otherwise
19 based on production of business.

20 (b) No person, firm, association, or corporation shall act or aid
21 in any manner in soliciting, negotiating, or procuring liability
22 insurance from an insurer not authorized to do business in this
23 state on behalf of a purchasing group located in this state unless
24 that person, firm, association, or corporation is licensed as a surplus
25 line broker in accordance with Chapter 6 (commencing with
26 Section 1760) of Part 2. A nonresident person may be licensed as
27 a surplus lines broker for purposes of placing insurance on behalf
28 of a purchasing group.

29 (c) Any person, firm, association, or corporation licensed
30 pursuant to Chapter 5 (commencing with Section 1621) of Part 2,
31 on business placed with risk retention groups or written through

1 a purchasing group, shall inform each prospective insured of the
2 provisions of the notice required by subdivision (g) of Section 132
3 in the case of a risk retention group and subdivision (b) of Section
4 135 in the case of a purchasing group.

5 SEC. 3. Section 769.55 of the Insurance Code is amended to
6 read:

7 769.55. (a) Notwithstanding any other provision of this code,
8 for the purposes of Chapter 6 (commencing with Section 520)
9 through Chapter 11 (commencing with Section 675), inclusive of
10 Part 1 of Division 1, the obligation of an insurer to furnish any
11 notice to its insured required by law may be carried out by an
12 insurer's general agent, provided, however, that an insurer's
13 delegation of a notice obligation to a general agent shall not limit
14 or negate the insurer's responsibility or liability if the general agent
15 fails to provide the required notice.

16 ~~As~~

17 (b) ~~As~~ used in this section, "general agent" means a licensed
18 ~~fire and property broker-agent or a licensed casualty broker-agent~~
19 who, pursuant to a written contract with an admitted insurer
20 manages the transaction of one or more classes of insurance written
21 by the insurer and has the power to (1) appoint, supervise, and
22 terminate local agents, (2) accept or decline risks, and (3) collect
23 premium moneys from producing broker-agents.

24 ~~Nothing~~

25 (c) ~~Nothing~~ in this section shall provide an exemption from
26 Article 5.4 (commencing with Section 769.80) to any ~~fire and~~
27 ~~property broker-agent or any~~ casualty broker-agent who is
28 otherwise subject to that article.

29 SEC. 4. Section 769.82 of the Insurance Code is amended to
30 read:

31 769.82. (a) No producer shall act in the capacity of an MGA
32 with respect to risks located in this state for an insurer ~~which that~~
33 holds a certificate of authority unless that producer is licensed as
34 a ~~fire and property broker-agent~~, casualty broker-agent, or as a
35 life agent in this state.

36 (b) No producer shall act in the capacity of an MGA representing
37 an insurer domiciled in this state with respect to risks located
38 outside this state unless that producer is licensed as a ~~fire and~~
39 ~~property broker-agent~~, casualty broker-agent, or as a life agent in
40 this state.

1 (c) The commissioner may require a fidelity bond in an amount
2 acceptable to him or her for the protection of the insurer.

3 (d) The commissioner may require the MGA to maintain an
4 errors and omissions policy. If a policy is not generally available
5 at a reasonable cost, the commissioner may, by rule, suspend the
6 requirement of this subdivision until that coverage becomes
7 generally available at a reasonable cost.

8 SEC. 5. Section 778.4 of the Insurance Code is amended to
9 read:

10 778.4. (a) Every ~~fire and property broker-agent~~ and every
11 casualty broker-agent shall, prior to arranging premium financing
12 for any new or renewal policy of insurance specified in Section
13 660, do all of the following:

14 (1) Provide the applicant or prospective insured with any
15 information that is required by the federal Truth in Lending Act
16 (15 U.S.C. Sec. 1601 et seq.).

17 (2) Obtain the signature of the applicant or prospective insured
18 on the following disclosure, which shall be in 10-point bold face
19 type on a separate form or sheet of paper:

20 Some insurance companies and the California Automobile
21 Assigned Risk Plan (CAARP) provide the opportunity to make
22 payments on insurance premiums. Your agent or broker is required
23 to disclose these options, if any are available for the insurance you
24 are purchasing. If you choose to enter into a contract that provides
25 for premium financing, your agent is required by law to make
26 certain disclosures concerning interest, fees, or other charges. If
27 your insurance has been financed by any person or business other
28 than your insurance company, and your insurance is canceled for
29 any reason, your loan may be subject to continued interest charges,
30 or other charges that may result from delays by your insurance
31 company in repaying the premium finance company. You should
32 understand all of the charges associated with your financing plan.
33 If you are uncertain about how the financing plan works, you
34 should ask your insurance agent or broker.

35 (b) Every ~~fire property broker-agent~~ and every casualty
36 agent-broker shall comply with the requirements of the Consumer
37 Contract Awareness Act of 1990 (Title 1.86 (commencing with
38 Section 1799.200) of Part 4 of Division 3 of the Civil Code) to the
39 extent that its provisions are applicable to any transaction subject
40 to this section.

(c) If a transaction subject to subdivision (a) is conducted over the telephone, the ~~fire property-broker agent~~ and ~~the~~ casualty broker-agent shall be deemed to have complied with the requirements of subdivision (a) if, within 72 hours after transacting the contract or agreement, the disclosure form and other information required by subdivision (a) is mailed to the applicant or insured at the address provided by the applicant or insured. Proof of mailing shall be established by the method described in Section 38.

SEC. 6. Section 827.8 of the Insurance Code is amended to read:

827.8. An offer or sale of voting common stock or preferred stock of and by a foreign or alien insurer to ~~fire and property broker-agents~~ or casualty broker-agents, as defined in Section 33.5, shall be exempt from the requirements of this article if all of the following requirements are met:

(a) The sale shall not be made to more than 35 ~~fire property broker-agents~~ and casualty broker-agents in the State of California.

(b) Each ~~fire property-broker agent~~ and ~~each~~ casualty broker-agent to whom an offer is made is an “accredited investor” as defined in Regulation D under the Federal Securities Act of 1933, as amended.

(c) Each ~~fire property-broker agent~~ and ~~each~~ casualty broker-agent to whom an offer is made meets all of the following requirements:

(1) The broker-agent shall have been appointed by the admitted insurer for a period of at least one year and that admitted insurer shall meet all of the following requirements:

(A) Be authorized to transact property and casualty insurance. For purposes of this section, property and casualty insurance means insurance falling within classes 2, 3, 7, 8, 10, 11, 12, 14, 15, 16, 18, and 20 under Section 100 except home protection contracts, as defined in Section 12740.

(B) Have at least four hundred million dollars (\$400,000,000) of statutory capital and surplus.

(C) Hold a certificate of authority in good standing with this state and have no regulatory action relating to financial hazard or fraud against the company in the last three years from states, including this state, where the insurer is authorized as an admitted insurer to do business.

1 (D) Is currently reinsuring or has definite plans to reinsure
2 business produced by that broker-agent with the same foreign or
3 alien insurer offering securities to the broker-agent.

4 (2) The broker-agent generates five million dollars (\$5,000,000)
5 in premiums per year and plans on transferring or writing at least
6 one million dollars (\$1,000,000) per year with the admitted insurer.

7 (3) The broker-agent shall pay at least fifty thousand dollars
8 (\$50,000) for the securities purchased in the transaction but not in
9 excess of five hundred thousand dollars (\$500,000).

10 (4) The broker-agent shall have a net worth of at least five
11 million dollars (\$5,000,000).

12 (d) The offer and sale of stock is accompanied by the prospectus,
13 private placement memorandum, together with any other
14 information required pursuant to Regulation D of the Federal
15 Securities Act of 1933.

16 (e) The consideration received by the issuer for the stock to be
17 issued consists solely of cash.

18 (f) No promotional consideration or selling expenses have been
19 given, paid, or incurred in connection with the issuance of stock,
20 and the offer and sale of stock is not accompanied by the
21 publication of any advertisement.

22 (g) All stock issued shall be evidenced by a certificate that shall
23 have a notice printed prominently on its face restricting the transfer
24 of the stock solely to the issuer or investors who have been
25 shareholders of the issuer for at least three years and who are
26 approved by at least 51 percent of the members of the board of
27 directors of the issuer.

28 (h) The issuer of both the common and preferred stock shall be
29 all of the following:

30 (1) A foreign or alien insurer that does not transact insurance
31 directly in California, but is solely a reinsurer.

32 (2) A reinsurer that only reinsures commercial lines property
33 and casualty insurance, as specified in subparagraph (A) of
34 paragraph (1) of subdivision (c).

35 SEC. 7. Section 1071 of the Insurance Code is amended to
36 read:

37 1071. The commissioner shall publish ~~such an~~ application for
38 withdrawal, ~~daily, for one week, in each of two daily newspapers~~
39 ~~of general circulation, one published in the city of San Francisco,~~
40 ~~and the other in the city of Sacramento. The expense of such~~

1 ~~publication shall be paid in advance by the insurer on the~~
2 ~~department's Internet Web site for a period of seven days.~~

3 SEC. 8. Section 1073 of the Insurance Code is amended to
4 read:

5 1073. Whenever any insurer withdraws from business in this
6 ~~State~~ *state*, and whenever for any reason the commissioner revokes
7 or cancels the certificate of authority admitting any insurer, the
8 commissioner shall ~~thereafter cause a notice of the revocation,~~
9 ~~cancellation or withdrawal to be published in one daily newspaper~~
10 ~~published in the city of San Francisco and one daily newspaper~~
11 ~~published in the city of Los Angeles. The expense of such~~
12 ~~publication shall be paid by the insurer publish the withdrawal,~~
13 ~~revocation, or cancellation on the department's Internet Web site~~
14 ~~for a period of seven days.~~

15 SEC. 9. Section 1074 of the Insurance Code is repealed.

16 1074. ~~Upon the failure of such insurer to pay the expense of~~
17 ~~such advertising within thirty days after the presentation of the bill~~
18 ~~therefor, the commissioner shall collect such fee from the surety~~
19 ~~in the bond furnished in accordance with the provisions of Article~~
20 ~~12 of this chapter or out of securities furnished thereunder.~~

21 SEC. 10. Section 1625 of the Insurance Code is amended to
22 read:

23 1625. (a) ~~A fire and~~ *A property licensee or a casualty licensee*
24 *is a person authorized to act as an insurance agent, broker, or*
25 *solicitor, and a fire and property broker-agent license or a casualty*
26 *broker-agent license is a license so to act.*

27 (b) Licenses to act as a ~~fire and casualty property~~ broker-agent
28 under this chapter shall ~~be of the following types:~~

29 (1) ~~Property, which shall~~ entitle the licensee to transact insurance
30 coverage on the direct or consequential loss or damage to property
31 of every kind.

32 (2) ~~Casualty, which~~

33 (c) *Licenses to act as a casualty broker-agent shall entitle the*
34 *licensee to transact insurance coverage against legal liability,*
35 *including that for death, injury, disability, or damage to real or*
36 *personal property.*

37 SEC. 11. Section 1625.5 of the Insurance Code is amended to
38 read:

39 1625.5. (a) A personal lines licensee is a person authorized to
40 transact automobile insurance, as defined in Section 660, including

1 insurance for recreational vehicles used for noncommercial
2 purposes, personal watercraft insurance, residential property
3 insurance, as defined in Section 10087, including earthquake and
4 flood insurance, inland marine insurance covering personal
5 property, and umbrella or excess liability insurance providing
6 coverage when written over one or more underlying automobile
7 or residential property insurance policies, and a personal lines
8 broker-agent license is a license to so act.

9 (b) A license under this section shall be applied for and renewed,
10 following successful completion of a qualifying examination on
11 this code, ethics, and products sold under the license, in the same
12 manner as is provided in this chapter for a license to act as a ~~fire~~
13 ~~and property broker-agent or a~~ casualty broker-agent, except as
14 provided in subdivision (c) or where provided otherwise.

15 (c) A person licensed as a personal lines agent who makes an
16 application to the commissioner to become a ~~fire and property~~
17 ~~broker-agent or a~~ casualty broker-agent pursuant to Section 1625
18 shall do all of the following:

19 (1) Submit an application on a form provided by the
20 commissioner.

21 (2) Complete prelicensing education as specified in Section
22 1749.

23 (3) Take and pass a qualifying examination pursuant to Section
24 1676.

25 (d) Notwithstanding any other provision of law, for a personal
26 lines license:

27 (1) "License term" for a personal lines license means all of that
28 two-year period beginning as described in either subdivision (a)
29 or (b) of Section 1629, as applicable, and ending the second
30 succeeding year on the last calendar day of the month in which
31 the initial license was issued.

32 (2) "License year" for a personal lines license shall be
33 determined for each entity as follows:

34 (A) Upon initial licensing, the license year starts on the date the
35 license is issued.

36 (B) Subsequently, each license year starts the first day of the
37 month following the month in which the initial license was issued.

38 (C) A license year ends the following calendar year on the last
39 calendar day of the month in which the initial license was issued.

SEC. 12. Section 1625.55 of the Insurance Code is amended to read:

1625.55. (a) A limited lines automobile insurance agent is a person authorized to transact automobile insurance, as defined in Section 660. A limited lines automobile insurance agent license is a license to so act.

(b) A license under this section shall be applied for and renewed, following successful completion of a qualifying examination on this code, ethics, and products sold under the license, in the same manner as provided in this chapter for a license to act as a ~~fire and property broker-agent~~ or a casualty broker-agent.

(c) The commissioner shall require in advance a fee for filing any applications, renewals thereof, or changes in outstanding licenses, or for the filing of other required documents at an amount designated in this chapter for a personal lines licensee, and for filing any notice of appointment or notice of termination at an amount specified in Section 1751.3.

(d) A person licensed as a limited lines automobile insurance agent who makes an application to the commissioner to become a ~~fire and property broker-agent~~ or a casualty broker-agent pursuant to Section 1625 or a personal lines agent pursuant to Section 1625.5 shall do all of the following:

(1) Submit an application on a form provided by the commissioner.

(2) Complete prelicensing education as specified in Section 1749.

(3) Take and pass a qualifying examination pursuant to Section 1676.

SEC. 13. Section 1627 of the Insurance Code is amended to read:

1627. A license is a permit to act in the capacity specified therein. A person licensed is the holder of the license. In case of a license to act as a life agent, ~~or fire and, property broker-agent,~~ or casualty broker-agent issued to an organization, the organization is the holder thereof, but the natural person or persons named thereon are thereby permitted to exercise the agency or brokerage powers of the organization in accordance with and subject to the provisions of this chapter and other applicable law. As used in this chapter, the term "license" includes a certificate of convenience and a permanent license, and the term "persons who are licensed"

1 includes the holders of any such certificate or the license, but these
2 definitions and the use of those terms in this chapter shall not
3 confer upon a certificate of convenience or any holder thereof any
4 property right in or to the certificate, the certificate being and
5 remaining only a temporary permit, issued as a matter of
6 convenience, allowing the transaction of insurance without a
7 permanent license, but within the limits, and subject to the
8 conditions of the certificate of convenience issued and the laws
9 applicable thereto.

10 SEC. 14. Section 1635 of the Insurance Code is amended to
11 read:

12 1635. No license is required under the provisions of this chapter
13 for a person to act in the following capacities or to engage in the
14 following activities, providing no commission is paid or allowed,
15 directly or indirectly, by the insurer, creditor, retailer, or other
16 person for acting in those capacities or engaging in those activities:

17 (a) The business of examining, certifying or abstracting titles
18 to real property.

19 (b) The solicitation for membership in a fraternal benefit society
20 and other activities to the extent and as described in Sections 11013
21 and 11102 of this code.

22 (c) As a salaried representative of a reciprocal or interinsurance
23 exchange or of its attorney in fact.

24 (d) Employment which does not include the solicitation,
25 negotiation, or effecting of contracts of insurance and the signing
26 of policies or other evidences of insurance.

27 (e) As an officer of an insurer or a salaried traveling employee
28 of the type commonly known as a special agent or as an agency
29 supervisor, while performing duties and exercising functions that
30 are commonly performed by a special agent or agency supervisor,
31 if the person engaging in the activity does not do either of the
32 following:

33 (1) Effect insurance.

34 (2) Solicit or negotiate insurance except as a part of and in
35 connection with the business of a ~~fire and~~ *property broker-agent*,
36 casualty broker-agent, or life agent licensed under this chapter.

37 (f) As an officer or salaried representative of a life insurer if his
38 or her activities are limited to direct technical advice and assistance
39 to a properly licensed person and his or her activities do not include
40 effecting, soliciting, or negotiating insurance except as a part of

1 and in connection with the business of a ~~fire and property~~
2 ~~broker-agent~~, casualty broker-agent, or life agent licensed under
3 this chapter.

4 (g) Employment by an insurer at its home or branch office which
5 does not include the solicitation, negotiation, or effecting of
6 contracts of insurance, and which may as part thereof include the
7 signing of policies or other evidences of insurance.

8 (h) The completion or delivery of a declaration or certificate of
9 coverage under a running inland marine insurance contract
10 evidencing coverage thereunder and including only those
11 negotiations as are necessary to the completion or delivery if the
12 person performing those acts or his or her employer has an
13 insurable interest in the risk covered by the certificate or
14 declaration.

15 (i) As an employee of a licensed ~~fire and property broker-agent~~
16 ~~or~~ casualty broker-agent, whose employment is one or more of
17 the following:

18 (1) That of a regularly salaried administrative or clerical
19 employee whose activities do not include the solicitation,
20 negotiation, or effecting of contracts of insurance from the insuring
21 public.

22 (2) That of a salesperson who devotes substantially all of his or
23 her activities to selling merchandise and whose solicitation of
24 insurance is limited only to the quoting of a premium for insurance
25 to be included in the purchase price covering the interest retained
26 in the merchandise by the seller.

27 (j) The solicitation, negotiation or effectuation of home
28 protection contracts by a person licensed pursuant to Part 1
29 (commencing with Section 10000) of Division 4 of the Business
30 and Professions Code in connection with his or her licensed
31 function authorized by Section 10131 or 10131.6 of the Business
32 and Professions Code. ~~Neither the~~ *The* receipt of a payment
33 permitted by Section 12760 ~~nor the receipt of a benefit permitted~~
34 ~~by Section 12765~~ shall *not* disqualify the recipient from the
35 licensing exemption provided by this chapter.

36 (k) Employees of an insurer whose duties are the inspection,
37 processing, adjusting, investigation, ~~or~~ settling of claims,
38 conducting safety inspections, or accepting or rejecting business
39 from licensed insurance agents or brokers.

1 (l) Officers, directors, or employees of an insurer or producer
2 whose executive, administrative, managerial, or clerical activities
3 are only indirectly related to solicitation, negotiation, or effecting
4 the sale of insurance, provided those persons do not have direct
5 contact with consumers in a sales or service capacity except as
6 otherwise provided by this section.

7 (m) Employees whose activities are limited to making clerical
8 changes in existing policies or providing indirect marketing and
9 servicing support for the purpose of determining general interest
10 in insurance products.

11 SEC. 15. Section 1649.5 of the Insurance Code is amended to
12 read:

13 1649.5. Notwithstanding Section 1642, an insurer may own or
14 control, whether directly or indirectly, a separate entity licensed
15 under this chapter as a ~~fire and property broker-agent~~, casualty
16 broker-agent, or life agent as defined in Section 1621, 1622, or
17 1623, respectively. Insurance transacted by a ~~fire and property~~
18 ~~broker-agent or a~~ casualty broker-agent with and on behalf of the
19 owning or controlling insurer shall be in its capacity as an insurance
20 agent.

21 SEC. 16. Section 1661 of the Insurance Code is amended to
22 read:

23 1661. Whenever an organization licensed as a life agent, ~~or a~~
24 ~~fire and property broker-agent~~, casualty broker-agent, *personal*
25 *lines broker-agent*, or *limited lines automobile insurance agent*
26 desires to change, remove, or add to the natural person or persons
27 who are to transact insurance under authority of its license, it shall
28 immediately file an application or notice on a form prescribed by
29 the commissioner with the commissioner for an endorsement
30 changing its license accordingly. The form ~~must~~ *shall* be submitted
31 by a means of electronic service approved by the commissioner.
32 The commissioner shall require that the prelicensing education
33 standards set forth in Section 1749 be met and that the qualifying
34 examination provided by this code be taken by any natural person
35 named by the organization to exercise its agency or brokerage
36 powers who would be required to take and pass the qualifying
37 examination. That natural person or persons and the organization
38 are in all other respects subject to the provisions of this chapter
39 and the insurance laws.

1 SEC. 17. Section 1662 of the Insurance Code is amended to
2 read:

3 1662. A ~~fire property broker-agent~~ and a casualty broker-agent
4 shall, prior to acting in the capacity of an insurance broker, file
5 and continuously maintain in force the bond required by this article.
6 Any authority to act as broker shall automatically terminate
7 immediately upon there being no bond in force.

8 SEC. 18. Section 1665 of the Insurance Code is amended to
9 read:

10 1665. The bond of a ~~fire property broker-agent~~ and a casualty
11 broker-agent shall be in the amount of ten thousand dollars
12 (\$10,000). The bond shall be contingent on the accounting by the
13 ~~fire and property broker-agent or the~~ casualty broker-agent to any
14 person requesting insurance, for moneys or premiums collected
15 by the ~~fire and property broker-agent or the~~ casualty broker-agent
16 when acting as a broker for insurance other than life.

17 SEC. 19. Section 1675 of the Insurance Code is amended to
18 read:

19 1675. Except as provided in Section 1680, the following
20 applicants who have theretofore been licensed under this code are
21 exempt from the requirements of this article:

22 (a) An applicant for a license to act as a ~~fire and property~~
23 ~~broker-agent or a~~ casualty broker-agent who has been licensed as
24 a ~~fire and property broker-agent~~, casualty broker-agent, or surplus
25 line broker during any part of the license year in which the
26 application is filed or the immediately preceding license year.

27 (b) An applicant for a license to act as a life-only agent who has
28 been licensed as a life-only agent during any part of the license
29 year in which the application is filed or the immediately preceding
30 license year.

31 (c) An applicant for a license to act as an accident and health
32 agent who has been licensed as an accident and health agent during
33 any part of the license year in which the application is filed or the
34 immediately preceding license year.

35 (d) An applicant for a license to act as a travel insurance agent.

36 (e) An applicant specifically exempted from the particular
37 qualifying examination requirement by other provisions of this
38 code.

39 (f) A nonresident licensee who applies for a ~~fire and property~~
40 ~~broker-agent~~, casualty broker-agent, personal lines broker-agent,

1 or life agent resident license in this state, and who is currently
2 licensed for the same lines of authority in the state of his or her
3 current resident license, shall not be required to complete an
4 examination. The application ~~must~~ *shall* be received within 90
5 days of the cancellation of the applicant's resident license and the
6 producer database records, maintained by the National Association
7 of Insurance Commissioners, ~~must~~ *shall* indicate that the producer
8 is licensed in good standing for the line of authority requested.

9 SEC. 20. Section 1676 of the Insurance Code is amended to
10 read:

11 1676. (a) Except as set forth in Sections 1675 and 1679, the
12 commissioner shall not issue a permanent license pursuant to this
13 chapter to an applicant therefor unless the applicant has within the
14 12-month period next preceding the date of issue of the license
15 taken and passed the qualifying examination for that license. This
16 section shall not apply to a person licensed as a ~~fire and property~~
17 *broker-agent or as a* casualty broker-agent who applies for a
18 license as a personal lines broker-agent.

19 (b) An application for both the life-only and accident and health
20 license types shall meet the requirement in subdivision (a) by
21 passing one examination covering subjects pertaining to both
22 license types. These applicants shall pay the fee for a life agent,
23 as specified in subparagraph (2) of subdivision (a) of Section 1751.

24 (c) An applicant for a life-only license pursuant to Section 1626
25 or a life-only license limited to the payment of funeral and burial
26 expenses who is limited by the terms of a written agreement with
27 an insurer which has filed on that life-only agent's behalf a notice
28 of appointment with the commissioner to transact only specific
29 life insurance policies or annuities having an initial face amount
30 of fifteen thousand dollars (\$15,000) or less that are designated
31 by the purchaser for the payment of funeral and burial expenses,
32 shall not be required to take the full life agent examination to obtain
33 a license. The applicant shall be required to take an examination
34 developed to test their knowledge of topics relevant to the type of
35 policies that they are restricted to sell.

36 SEC. 21. Section 1679 of the Insurance Code is amended to
37 read:

38 1679. (a) A nonresident applicant for a license shall be subject
39 to the same qualifying examination as is required of a resident
40 applicant. The examination may be administered to an eligible

1 nonresident applicant through the insurance authority of the state,
2 territory of the United States, or province of Canada of his or her
3 residence; provided, however, that the commissioner may, in his
4 or her discretion, enter into a reciprocal arrangement with the
5 officer having supervision of the insurance business in any other
6 state, territory of the United States, or province of Canada whose
7 qualification standards for the applicant to be examined are
8 substantially the same as or in excess of those of this state, to
9 accept, in lieu of the examination of an applicant residing therein,
10 a certificate of the officer to the effect that the applicant is licensed
11 in that state, territory of the United States, or province of Canada
12 in a capacity similar to that for which a license is sought in this
13 state and has complied with its qualification standards in respect
14 to *all of* the following:

15 (1) Experience or training;

16 (2) Reasonable familiarity with the broad principles of insurance
17 licensing and regulatory laws and with the provisions, terms and
18 conditions of the insurance which the applicant proposes to
19 transact; ~~and.~~

20 (3) A fair and general understanding of the obligations and
21 duties of a holder of the license sought.

22 (b) The provisions of this section shall not apply to a nonresident
23 applicant who maintains a license in a jurisdiction that grants
24 reciprocity to California residents in accordance with Section
25 1638.5.

26 (c) A nonresident applicant for an organizational license ~~must~~
27 ~~shall name at least one person from their home state who may~~
28 ~~exercise the power and perform the duties under their license.~~
29 ~~Additional persons endorsed to that license may be residents of~~
30 ~~another state, but may not be residents of California. from a state~~
31 ~~other than California who may exercise the power and perform~~
32 ~~the duties under their license. Additional persons endorsed to that~~
33 ~~license may be residents of other states, including California.~~

34 SEC. 22. Section 1680 of the Insurance Code is repealed.

35 ~~1680. If a nonresident secures a license without examination~~
36 ~~through the filing of a certificate described in Section 1679 and~~
37 ~~thereafter seeks a license as a resident, he must take and pass the~~
38 ~~qualifying examination for the license sought.~~

39 SEC. 23. Section 1686 of the Insurance Code is amended to
40 read:

1 1686. To be eligible for an estate certificate of convenience, a
2 person ~~must~~ *shall* be one of the following:

3 (a) The executor or administrator of the estate of a deceased
4 ~~fire and property broker-agent~~, casualty broker-agent, or life agent.

5 (b) If no executor or administrator has been appointed, the
6 surviving spouse or heir otherwise entitled to conduct the business
7 of the deceased ~~fire and property broker-agent~~, casualty
8 broker-agent, or life agent.

9 (c) The conservator of the estate of a ~~fire and property~~
10 ~~broker-agent~~, casualty broker-agent, or life agent.

11 SEC. 24. Section 1693 of the Insurance Code is amended to
12 read:

13 1693. An estate certificate of convenience expires upon the
14 happening of any of the following events, whichever occurs first:

15 (a) Upon the filing with the commissioner of a certified copy
16 of an order appointing an executor or administrator, if the certificate
17 of convenience has been issued to a person other than the person
18 so appointed executor or administrator.

19 (b) Upon the filing with the commissioner of a certified copy
20 of an order appointing a new conservator of the estate of a ~~fire and~~
21 ~~property broker-agent~~, casualty broker-agent, or life agent.

22 (c) Upon the disposal of the business of the ~~fire and property~~
23 ~~broker-agent~~, casualty broker-agent, or life agent who is deceased
24 or for whom a conservator of the estate has been appointed.

25 (d) Upon the expiration of one year after the death of the
26 deceased ~~fire and property broker-agent~~, casualty broker-agent,
27 or life agent; provided, however, that if during the said year the
28 holder of the certificate of convenience files an application for a
29 license to act as a ~~fire and property broker-agent~~, casualty
30 broker-agent, or life agent in his or her individual capacity, then
31 the certificate of convenience may remain in force until the holder
32 thereof has been given an opportunity to take the qualifying
33 examination for the license.

34 (e) Upon the termination of the conservatorship of the estate of
35 the ~~fire and property broker-agent~~, casualty broker-agent, or life
36 agent.

37 SEC. 25. Section 1704 of the Insurance Code is amended to
38 read:

39 1704. (a) Any person acting as a licensee under this chapter
40 shall not act as an agent of an insurer unless the insurer has filed

1 with the commissioner a notice of appointment, executed by the
2 insurer, appointing the licensee as the insurer's agent. Every ~~fire~~
3 ~~and property broker-agent~~, casualty broker-agent, *personal lines*
4 *broker-agent, or limited lines automobile insurance agent* acting
5 in the capacity of an insurance solicitor shall have filed on his or
6 her behalf with the commissioner a notice executed by an insurance
7 agent or insurance broker appointing and agreeing to employ the
8 solicitor as an employee within this state. Additional notices of
9 appointment may be filed by other insurers before the license is
10 issued and thereafter as long as the license remains in force. The
11 authority to transact insurance given to a licensee by an insurer ~~or~~
12 ~~fire and, property broker-agent~~, casualty broker-agent, *personal*
13 *lines broker-agent, or limited lines automobile insurance agent*,
14 as the case may be, by appointment shall be effective as of the date
15 the notice of appointment is signed. That authority to transact shall
16 apply to transactions occurring after that date and for the purpose
17 of determining the insurer's ~~or fire and, property broker-agent's~~,
18 casualty broker-agent's, *personal lines broker-agent's, or limited*
19 *lines automobile insurance agent's* liability for acts of the
20 appointed licensee. No notice of appointment of a life agent, ~~fire~~
21 ~~and property broker-agent~~, casualty broker-agent, *personal lines*
22 *broker-agent, limited lines automobile insurance agent*, or travel
23 insurance agent shall be filed under this subdivision unless the
24 licensee being appointed has consented to that filing. Each
25 appointment made under this subdivision shall by its terms continue
26 in force until:

27 (1) The cancellation or expiration of the license applied for or
28 held at the time the appointment was filed.

29 (2) The filing of a notice of termination by the insurer or
30 employing ~~fire and property broker-agent~~ or casualty broker-agent,
31 or by the appointed life agent, ~~fire and property broker-agent~~,
32 casualty broker-agent, travel insurance agent, or insurance solicitor.

33 (b) Upon the termination of all appointments, or all
34 endorsements naming the licensee on the license of an organization
35 licensee, and the cancellation of the bond required pursuant to
36 Section 1662 if acting as a broker, the permanent license shall not
37 be canceled, but shall become inactive. It may be renewed pursuant
38 to Section 1718. It may be reactivated at any time prior to its
39 expiration by the filing of a new appointment pursuant to this
40 section, Section 1707, and Section 1751.3, or the filing of a new

1 bond pursuant to Section 1662. An inactive license shall not permit
2 its holder to transact any insurance for which a valid, active license
3 is required.

4 (c) Upon the termination of all appointments of a person licensed
5 under a certificate of convenience, ~~such~~ *that* certificate shall be
6 canceled and shall be returned by its lawful custodian to the
7 commissioner.

8 (d) A ~~fire and property broker-agent~~ or a casualty broker-agent
9 appointing an insurance solicitor pursuant to this section, if a
10 natural person, ~~must~~ *shall* be the holder of a permanent license to
11 act as a ~~fire and casualty~~ *such* broker-agent or the holder of a
12 certificate of convenience so to act issued pursuant to either
13 subdivision (a) or (b) of Section 1685. If the ~~fire and property~~
14 ~~broker-agent~~ or the casualty broker-agent is an organization, it
15 ~~must~~ *shall* be the holder of a permanent license.

16 (e) The filing of an incomplete or deficient action notice with
17 the department shall require the filing of an amended, complete
18 action notice, together with the payment of the fee therefor
19 specified in subdivision ~~(n)~~ *(m)* of Section 1751.

20 (f) A notice of appointment appointing a solicitor may be filed
21 by a second or subsequent ~~fire and property broker-agent~~ or
22 casualty broker-agent. The broker-agent seeking to appoint the
23 solicitor shall enter into an agreement with all other ~~fire property~~
24 ~~broker-agents~~ and casualty broker-agents with whom the insurance
25 solicitor has an existing appointment. The agreement shall govern
26 how the broker-agents will determine on which ~~fire and property~~
27 ~~broker-agent's~~ or casualty broker-agent's behalf the solicitor is
28 working when dealing with individuals who are customers of none
29 of the ~~fire property broker-agents~~ and casualty broker-agents with
30 whom the solicitor has an appointment. If the agreement does not
31 identify which broker-agent or broker-agents are liable for the act
32 of the solicitor, all ~~fire property broker-agents~~ and casualty
33 broker-agents with whom the solicitor is appointed at the time of
34 the act shall be jointly and severally liable for that act.

35 SEC. 26. Section 1705 of the Insurance Code is amended to
36 read:

37 1705. An insurer, or employing ~~fire and property broker-agent~~
38 or casualty broker-agent, by filing a notice of appointment on
39 behalf of an applicant for an original license pursuant to Section
40 1704, and who is not then licensed pursuant to this chapter or

Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800) ~~of Part 2 of Division 1~~, shall be deemed by that act to have declared that:

(a) The applicant is of good reputation.

(b) The applicant is worthy of the license sought.

An insurer, ~~or fire and property broker-agent~~, or casualty broker-agent, by filing a notice of appointment on behalf of an applicant for an original license to act as a life agent, ~~fire and property broker-agent~~, casualty broker-agent, or insurance solicitor, where the applicant for any reason will not be issued a certificate of convenience pending examination under Article 8 (commencing with Section 1685) ~~of this chapter~~, shall be deemed to have declared that the applicant has had experience or instruction in classes of insurance, the transaction of which is authorized by the license sought, or will be given the necessary instruction within 30 days after the issuance of the license.

Should the applicant for a life agent's ~~or a fire and, property broker-agent's~~, or casualty broker-agent's license be a copartnership, corporation, or association, the insurer filing the appointment shall be deemed to have made the declarations set forth in subdivisions (a) and (b) of this section as regards both the business organization and each natural person whose name appears in the application as one to exercise the agency powers of the license sought. The insurer shall be deemed to have made the declaration in the preceding paragraph only as regards the natural person or persons to be named on the organization's license initially.

Whenever a copartnership, corporation or association licensed as a life agent ~~or as a fire and, property broker-agent~~, or casualty broker-agent files to add to any such license the name of a natural person to exercise the agency powers thereunder, the business organization shall be deemed to have made the appropriate declarations regarding the natural person, as set forth in this section, as are required of an insurer filing a notice of appointment on behalf of an applicant for an original license.

SEC. 27. Section 1707.51 of the Insurance Code is amended to read:

1707.51. (a) Notwithstanding any other provision of law, qualified applicants who applied in proper form and requested an examination date for a ~~fire and property~~, casualty, or life insurance

1 license prior to December 1, 1991, shall be provided the
2 opportunity to qualify for licensure under statutory licensure
3 provisions in effect on December 31, 1991.

4 (b) The department may require the applicant to execute a sworn
5 statement subject to a penalty of perjury and denial of license
6 declaring that they meet the qualifications set forth in subdivision

7 (a). The department shall provide public notice as to the availability
8 of these tests and as to the procedure and requirements necessary
9 to qualify for the test. The tests shall be administered within 90
10 days of enactment of this section.

11 SEC. 28. Section 1707.7 of the Insurance Code is amended to
12 read:

13 1707.7. As part of the report required under Section 12922,
14 the commissioner shall provide the following information for the
15 previous calendar year ending December 31 for five years after
16 the operative date of this section:

17 (a) The total number of applications filed for a fire and casualty
18 broker-agent license, *a property broker-agent license, a casualty*
19 *broker-agent license*, a personal lines broker-agent license, a
20 limited lines auto-only agent license, a life-only agent license, and
21 an accident and health agent license.

22 (b) The total number of licensees issued a fire and casualty
23 license, *a property broker-agent license, a casualty broker-agent*
24 *license*, a personal lines license, a limited lines automobile license,
25 a life-only license, and an accident and health license.

26 (c) The total number of licensees with both a life-only agent
27 license and an accident and health agent license.

28 (d) The total justified complaints against the licensees
29 enumerated in subdivision (b) annually for five years.

30 (e) At the end of five years following the issuance of auto-only
31 agent, life-only agent, and accident and health agent licenses, a
32 cumulative summary of the data required by this section compared
33 to the licenses issued for fire and casualty broker-agent, *property*
34 *broker-agent, casualty broker-agent*, personal lines broker-agent,
35 and life agent for the year immediately preceding the creation of
36 this section.

37 SEC. 29. Section 1712.5 of the Insurance Code is amended to
38 read:

39 1712.5. (a) The license of an organization licensed as a ~~fire~~
40 ~~and property broker-agent~~, casualty broker-agent, or life agent

1 shall become inoperative upon the removal or termination of the
2 last natural person named thereon, ~~or when the last natural person~~
3 ~~is no longer eligible to be named thereon in accordance with~~
4 ~~Section 1647.~~

5 Unless

6 (b) Unless the license is reactivated by the correction of all
7 deficiencies including, if necessary, the adding of a natural person
8 to transact insurance under the authority of the organization's
9 license pursuant to Section 1661, the license shall not be renewed.

10 SEC. 30. Section 1725 of the Insurance Code is amended to
11 read:

12 1725. Every license to act as a ~~fire~~ *property broker-agent* and
13 *every license to act as a* casualty broker-agent shall be prominently
14 displayed by the holder thereof in his or her office in a manner
15 whereby anyone may readily inspect it and ascertain both its
16 currency and the capacity in which its holder is licensed to act.

17 SEC. 31. Section 1728 of the Insurance Code is amended to
18 read:

19 1728. Every resident insurance ~~fire~~ *property broker-agent* and
20 *every resident insurance* casualty broker-agent shall maintain a
21 principal office in this state for the transaction of business. The
22 address of the office shall, pursuant to Section 1658, be specified
23 on all applications for license and renewal applications.

24 SEC. 32. Section 1729.5 of the Insurance Code is amended to
25 read:

26 1729.5. A ~~fire~~ *and property broker-agent*, casualty
27 broker-agent, or life agent who has a service contract with a
28 corporation licensed under this code or who is a stockholder or
29 member of any incorporated association or corporation organized
30 under the Corporations Code for the purpose of providing services
31 to ~~fire~~ *and property broker-agents*, casualty broker-agents, or life
32 agents may use the name of such a corporation or association on
33 any stationery or advertisements and other written or printed matter
34 used to identify the business of the ~~fire~~ *and property broker-agent*,
35 casualty broker-agent, or life agent provided that the name of the
36 ~~fire~~ *and property broker-agent*, casualty broker-agent, or life agent
37 is clearly identified as bearing only that relationship to the
38 corporation or association in one of the following ways:

39 "Representing ____;"

40 "A stockholder of ____;"

1 “Placing business through ____;”

2 “Using services of ____.”

3 The use of the corporation or association name in the manner
4 provided in this section shall not constitute such use as would
5 mislead the public within the meaning of Section 1724.5.

6 SEC. 33. Section 1730.5 of the Insurance Code is amended to
7 read:

8 1730.5. A life agent ~~and a fire~~, a *property broker-agent*, and
9 a casualty broker-agent shall provide to all insureds or applicants
10 at the time of application or receipt of premium moneys the
11 effective date of coverage, if known, or the circumstances under
12 which coverage will be effective if there exists conditions precedent
13 to coverage. This section shall apply only to coverage for personal
14 lines of insurance, such as private passenger automobile,
15 homeowner and renter insurance, personal liability, and individual
16 disability and health insurance.

17 SEC. 34. Section 1730.6 of the Insurance Code is amended to
18 read:

19 1730.6. (a) Every ~~fire~~ *property broker-agent* and every casualty
20 broker-agent shall, prior to arranging premium financing or
21 transacting any agreement for the periodic payment of premium
22 for any new or renewal policy of insurance specified in Section
23 660, disclose to any applicant or prospective insured any options
24 for premium financing or the periodic payment of premium from
25 the insurer or, if applicable, the California Automobile Assigned
26 Risk Plan, that are available for the insurance being purchased.
27 This disclosure may be in the form of a written document. In the
28 event the applicant or prospective insured elects to enter into an
29 agreement for premium financing, the ~~fire~~ *property broker-agent*
30 and casualty broker-agent shall comply with the requirements of
31 Section 778.4.

32 (b) For purposes of this section and Section 778.4:

33 (1) “Periodic payment of premium” means the payment plan
34 provided by the California Automobile Assigned Risk Plan, or a
35 payment plan provided by the insurer that allows the total premium
36 to be paid in more than one installment.

37 (2) “Arrange premium financing” means assisting an applicant
38 or prospective insured to arrange for payment of the premium
39 through a premium finance agreement as defined in Section 778.1.

SEC. 35. Section 1735 of the Insurance Code is amended to read:

1735. (a) As used in this section, a managing general agent is a licensed ~~fire and~~ *property broker-agent*, casualty broker-agent, or a life agent to whom all of the following apply:

(1) Has a written management contract and an appointment on file with the commissioner in accordance with Section 1704, which appointment is then in force, with one or more admitted insurers covering business transacted by the insurer in a substantial portion of the State of California.

(2) Under the contract specified in paragraph (1), manages the transaction of either all or one or more of the classes of insurance written by those insurers in that territory or the transactions therein by those insurers under a specified fictitious underwriter's name.

(3) Has the power to appoint, supervise, and terminate the appointment of local agents in that territory.

(4) Has the power to accept or decline risks.

(5) Collects premium moneys from producing broker-agents and remits those moneys to those insurers pursuant to the account current system.

(b) The managing general agent shall, with respect to any principals for whom fiduciary funds are held, comply with Section 1734.

SEC. 36. Section 1735.5 of the Insurance Code is amended to read:

1735.5. A ~~fire and~~ *property broker-agent*, casualty broker-agent, or surplus line broker may offset funds due an insured for return premiums on any policy against amounts due him or her from the same insured for unpaid premiums on the same or any other policy. Any insurer may pay return premiums to any ~~fire and~~ *property broker-agent or any* casualty broker-agent for that purpose. This section shall not invalidate an assignment of return premium made concurrently with policy issuance as security for financing that premium, nor the right of the assignee, or his or her assign, to enforce the assignment as a prior claim.

SEC. 37. Section 1747 of the Insurance Code is amended to read:

1747. Whenever the commissioner may determine or have good cause to believe that any ~~fire and~~ *property broker-agent or* casualty broker-agent has failed to keep or maintain the records

1 required by ~~Sections 1727 and 1727.5~~ *Section 1727*, in connection
2 with or in lieu of any other disciplinary action against the license
3 of the licensee, the commissioner may issue his or her order
4 requiring the licensee to establish and currently complete those
5 records within ~~sixty (60)~~ 60 days from the date of the order. When
6 the order is given in lieu of other disciplinary action, notice of the
7 order may be given by certified mail addressed to the office of the
8 licensee. Failure of the licensee to comply with the order within
9 the time specified therein shall be grounds for the suspension or
10 revocation of the license or licenses of the licensee, and the
11 proceeding shall be conducted in accordance with Chapter 5
12 (commencing with Section 11500) of Part 1 of Division 3 of Title
13 2 of the Government Code.

14 SEC. 38. Section 1749 of the Insurance Code is amended to
15 read:

16 1749. The department shall require all new applicants for
17 license as a property broker-agent, casualty broker-agent, limited
18 lines automobile insurance agent, personal lines broker-agent,
19 life-only agent, or accident and health agent to meet prelicensing
20 education standards as follows:

21 (a) Require a minimum of 20 hours of prelicensing study as a
22 prerequisite to qualification for a property broker-agent license.
23 The curriculum for satisfying this requirement shall be approved
24 by the curriculum board and submitted to the commissioner for
25 final approval. Any additions to the minimum requirements
26 provided by this section shall be approved by the curriculum board
27 pursuant to Section 1749.1 and certified by the department.

28 (b) Require a minimum of 20 hours of prelicensing study as a
29 prerequisite to qualification for a casualty broker-agent license.
30 The curriculum for satisfying this requirement shall be approved
31 by the curriculum board and submitted to the commissioner for
32 final approval. Any additions to the minimum requirements
33 provided by this section shall be approved by the curriculum board
34 pursuant to Section 1749.1 and certified by the department.

35 (c) Require a minimum of 20 hours of prelicensing study as a
36 prerequisite for qualification for a personal lines broker-agent
37 license. The curriculum for satisfying this requirement shall be
38 approved by the curriculum board and submitted to the
39 commissioner for final approval. Any additions to the minimum
40 requirements provided by this section shall be approved by the

1 curriculum board pursuant to Section 1749.1 and certified by the
2 department.

3 (d) Require a minimum of 20 hours of prelicensing study as a
4 prerequisite for qualification for a life-only agent license. The
5 curriculum for satisfying this requirement shall be approved by
6 the curriculum board and submitted to the commissioner for final
7 approval. Any additions to the minimum requirements provided
8 by this section shall be approved by the curriculum board pursuant
9 to Section 1749.1 and certified by the department.

10 (e) Require a minimum of 20 hours of prelicensing study as a
11 prerequisite for qualification for a limited lines automobile
12 insurance agent license. The curriculum for satisfying this
13 requirement shall be approved by the curriculum board and
14 submitted to the commissioner for final approval. Any additions
15 to the minimum requirements under this section shall be approved
16 by the curriculum board pursuant to Section 1749.1 and certified
17 by the department.

18 (f) Require a minimum of 20 hours of prelicensing study as a
19 prerequisite for qualification for an accident and health insurance
20 agent license. The curriculum for satisfying this requirement shall
21 be approved by the curriculum board and submitted to the
22 commissioner for final approval. Any additions to the minimum
23 requirements under this section shall be approved by the curriculum
24 board pursuant to Section 1749.1 and certified by the department.
25 This curriculum shall also include instruction in workers'
26 compensation and general principles of employers' liability.

27 (g) In addition to the 20 hours of prelicensing education required
28 to qualify for a license as a property broker-agent, casualty
29 broker-agent, personal lines broker-agent, a life-only agent, or an
30 accident and health agent, or the 20 hours of prelicensing education
31 required to qualify for a license as a limited lines automobile
32 insurance agent, the department shall require 12 hours of study on
33 ethics and this code. Where an applicant seeks a license for more
34 than one of the following license types: ~~a fire and property~~
35 ~~broker-agent, a~~ casualty broker-agent license, a personal lines
36 broker-agent license, a life-only license, or an accident and health
37 license, the applicant shall only be required to complete one
38 12-hour course on ethics and this code. The curriculum for
39 satisfying this requirement shall be approved by the curriculum
40 board and submitted to the commissioner for final approval.

1 (h) An applicant for a life-only agent license, an accident and
2 health license, a personal lines broker-agent license, or a limited
3 lines automobile insurance agent license, who is currently licensed
4 as a nonresident in this state shall be required to complete only the
5 course of study on ethics and this code, as required by this section.
6 Additionally, any applicant for that license holding one or more
7 of the designations specified in subdivisions (a) to (p), inclusive,
8 of Section 1749.4 shall be exempted from any requirement for
9 courses in general insurance that would otherwise be a condition
10 of issuance of the license.

11 (i) An applicant for a property broker-agent or casualty
12 broker-agent license who is currently licensed as a nonresident in
13 this state shall be required to complete only the course of study on
14 ethics and this code, as required by subdivision (g). Additionally,
15 any applicant for a license holding one or more of the designations
16 specified in subdivisions (a) to (p), inclusive, of Section 1749.4,
17 shall be exempted from any requirement for courses in general
18 insurance that would otherwise be a condition of issuance of a
19 license.

20 (j) An applicant for a property broker-agent or casualty
21 broker-agent license or both who is licensed as a personal lines
22 agent shall complete a minimum of 20 hours of prelicensing study
23 as a prerequisite for each of these licenses. The curriculum for
24 satisfying this requirement shall be approved by the curriculum
25 board and submitted to the commissioner for final approval. The
26 applicant shall not be required to repeat any prelicensing
27 requirements completed as a prerequisite to being licensed as a
28 personal lines agent.

29 (k) Review and approval of prelicensing courses not conducted
30 in a classroom, as referenced in subdivisions (a) to (j), inclusive,
31 shall include an evaluation of the safeguards in place to ensure
32 that the student completing the course is the person enrolled in the
33 course, methods used to monitor the student's attendance are
34 adequate, methods for the student to interact with the entity
35 providing the training exist, and methods used to record the times
36 spent completing the course are adequate.

37 (l) Prelicensing certificates of completion expire three years
38 from the completion date of the course, whether or not a license
39 is issued.

SEC. 39. Section 1749.2 of the Insurance Code is amended to read:

1749.2. The purpose of Sections 1749.3 to 1749.6, inclusive, is to establish requirements and standards for continuing education programs for persons licensed as ~~fire and~~ *property broker-agents*, casualty broker-agents, and life agents.

Sections 1749.3 to 1749.6, inclusive, shall not apply to either (a) those persons holding resident licenses for any kind or kinds of insurance for which an examination is not required by the law of this state, nor shall it apply to any such limited or restricted license as the commissioner may exempt or (b) licensed nonresident agents or brokers who comply with the continuing education requirements of their state of residence.

SEC. 40. Section 1749.33 of the Insurance Code is amended to read:

1749.33. (a) A life-only agent licensee shall satisfactorily complete 24 hours of instruction prior to renewal of the license. These hours of instruction may be completed at any time prior to renewal of the license.

(b) An accident and health agent licensee shall satisfactorily complete 24 hours of instruction prior to renewal of the license. These hours of instruction may be completed at any time prior to renewal of the license.

(c) An agent licensed as both a life-only agent and as an accident and health agent shall satisfactorily complete a total of 24 hours of instruction prior to renewal of the license. These hours of instruction may be completed at any time prior to renewal of the license.

(d) Any accident and health agent who wishes to sell 24-hour care coverage, as defined in Section 1749.02, shall complete a course, program of instruction, or seminar of an approved continuing education provider on workers' compensation and general principles of employer liability, which shall be completed by examination approved by the commissioner as part of the continuing education course, program of instruction, or seminar prior to selling this coverage. The required number of instruction hours shall be equal to but no greater than that required by the curriculum board for the prelicensing requirements of a ~~fire and~~ *property broker-agent or a* casualty broker-agent on these subjects. For resident licensees, this requirement shall count toward the

1 licensee's continuing education requirement, but may still result
2 in completing more than the minimum number of continuing
3 education hours set forth in this section. Nothing in this section
4 shall be deemed to allow an accident and health agent to satisfy
5 the obligations set forth in this section by other than a proctored
6 examination administered or approved by the department.

7 SEC. 41. Section 1749.4 of the Insurance Code is amended to
8 read:

9 1749.4. The courses or programs of instruction successfully
10 completed that shall be deemed to meet the standards for continuing
11 educational requirements, and the number of classroom hours for
12 which they are equivalent, are as follows:

13 (a) Any part of the Life Underwriter Training Council Fellow
14 (LUTCF) program totaling 30 hours for the life-only license and
15 the accident and health license.

16 (b) Any part of the Chartered Life Underwriter (CLU)
17 curriculum totaling 30 hours for the life-only license and the
18 accident and health license.

19 (c) Any part of the Accredited Advisor in Insurance (AAI)
20 program totaling 25 hours for the ~~fire~~ *property broker-agent license*
21 *or the casualty broker-agent license*.

22 (d) Any part of the Chartered Property Casualty Underwriter
23 (CPCU) program totaling 30 hours for the ~~fire~~ *property*
24 *broker-agent license or the casualty broker-agent license*.

25 (e) Any part of the Certified Insurance Counselor (CIC) program
26 totaling 25 hours for the life-only or accident health agent license
27 and the ~~fire~~ *property broker-agent license or the casualty*
28 *broker-agent license*.

29 (f) Any part of the Certified Employee Benefit Specialists
30 (CEBS) program totaling 25 hours for the life-only license and the
31 accident and health license.

32 (g) Any part of the Chartered Financial Consultant (ChFC)
33 program totaling 30 hours for the life-only license.

34 (h) Any part of the Certified Financial Planner (CFP) program
35 totaling 30 hours for the life-only license.

36 (i) Any part of the Fellow, Life Management Institute (FLMI)
37 program totaling 30 hours for the life-only license and the accident
38 and health license.

39 (j) Any part of the Health Insurance Associate (HIA) program
40 totaling 25 hours for the accident and health license.

(k) Any part of the Registered Employee Benefits Consultant (REBC) program totaling 30 hours for the accident and health license.

(l) Any part of the Registered Health Underwriter (RHU) program totaling 30 hours for the accident and health license.

(m) Any part of the Associate in Risk Management (ARM) program totaling 30 hours for the ~~fire~~ *property broker-agent license* or the casualty broker-agent license.

(n) Any insurance-related course approved by the curriculum board and the commissioner taught by an accredited college or university per credit hour granted totaling 15 hours.

(o) Any course or program of instruction or seminar developed or sponsored by an authorized insurer, recognized agents' association, or insurance trade association, or any independent program of instruction shall, if approved by the curriculum board and the commissioner, qualify for the equivalency of the number of classroom hours assigned thereto by the curriculum board and the commissioner.

(p) Any correspondence course approved by the curriculum board and the commissioner shall qualify for the equivalency of the number of classroom hours assigned thereto by the commissioner.

SEC. 42. Section 1749.8 of the Insurance Code is amended to read:

1749.8. (a) ~~Effective January 1, 2005, every~~ Every life agent who sells annuities shall satisfactorily complete eight hours of training prior to soliciting individual consumers in order to sell annuities.

(b) ~~Effective January 1, 2005, every~~ Every life agent who sells annuities shall satisfactorily complete four hours of training ~~every two years prior to~~ *prior to each* license renewal. For resident licensees, this requirement shall count toward the licensee's continuing education requirement, but may still result in completing more than the minimum number of continuing education hours set forth in this section.

(c) The training required by this section shall be approved by the commissioner and shall consist of topics related to annuities, and California law, regulations, and requirements related to annuities, prohibited sales practices, the recognition of indicators that a prospective insured may lack the short-term memory or

1 judgment to knowingly purchase an insurance product, and
2 fraudulent and unfair trade practices. Subject matter determined
3 by the commissioner to be primarily intended to promote the sale
4 or marketing of annuities shall not qualify for credit towards the
5 training requirement. Any course or seminar that is disapproved
6 under the provisions of this section shall be presumed invalid for
7 credit towards the training requirement of this section unless it is
8 approved in writing by the commissioner.

9 (d) The training requirements set forth in this section shall not
10 apply to nonresident agents representing an insurer that is a direct
11 response provider.

12 For the purposes of this section, "direct response provider" means
13 an insurer that meets each of the following criteria:

14 (1) The insurer does not initiate telephone contact with insureds
15 or prospective insureds.

16 (2) Agents of the insurer speak with insureds and prospective
17 insureds only by telephone, and at the request of the insureds or
18 prospective insureds.

19 (3) Agents of the insurer are assigned to speak with insureds or
20 prospective insureds on a random basis, when contacted.

21 (4) Agents of the insurer are salaried and do not receive
22 commissions for sales or referrals.

23 SEC. 43. Section 1749.85 of the Insurance Code is amended
24 to read:

25 1749.85. (a) The curriculum committee shall, in 2006, make
26 recommendations to the commissioner to instruct ~~fire and property~~
27 ~~broker-agents~~, casualty broker-agents, and personal lines
28 broker-agents and applicants for ~~fire and property broker-agent~~,
29 casualty broker-agent, and personal lines broker-agent licenses in
30 proper methods of estimating the replacement value of structures,
31 and of explaining various levels of coverage under a homeowners'
32 insurance policy. Each provider of courses based upon this
33 curriculum shall submit its course content to the commissioner for
34 approval.

35 (b) A person who is not an insurer underwriter or actuary or
36 other person identified by the insurer, or a licensed ~~fire and~~
37 ~~property broker-agent~~, casualty broker-agent, personal lines
38 broker-agent, contractor, or architect shall not estimate the
39 replacement value of a structure, or explain various levels of
40 coverage under a homeowners' insurance policy.

(c) This section shall not be construed to preclude licensed appraisers, contractors and architects from estimating replacement value of a structure.

(d) However, if the Department of Insurance, by adopting a regulation, establishes standards for the calculation of estimates of replacement value of a structure by appraisers, then on and after the effective date of the regulation a real estate appraiser's estimate of replacement value shall be calculated in accordance with the regulation.

SEC. 44. Section 1750 of the Insurance Code is amended to read:

1750. The commissioner shall require in advance as a fee for filing application for the hereinafter designated licenses, renewals thereof, or changes in outstanding licenses, an amount calculated as set forth herein. The fee is determined by multiplying the number of license years in the period of the license applied for or the remaining period of an existing license counting any initial fractional license year of that period as one year for that purpose, as follows:

(a) ~~Fire and casualty~~ *Casualty* broker-agent, fifty-six dollars (\$56).

(b) *Property broker-agent, fifty-six dollars (\$56).*

~~(b)~~

(c) Personal lines broker-agent, resident, fifty-six dollars (\$56).

~~(c)~~

(d) Life agent, resident, fifty-six dollars (\$56).

~~(d)~~

(e) Life agent, nonresident, fifty-six dollars (\$56).

~~(e)~~

(f) Surplus line broker who is an individual transacting only on behalf of a surplus line broker organization, two hundred fifty dollars (\$250).

~~(f)~~

(g) Surplus line broker not described in subdivision (e), five hundred dollars (\$500).

SEC. 45. Section 1750.5 of the Insurance Code is amended to read:

1750.5. (a) The fee for filing an application for a nonresident license described in Section 1639, and renewal thereof or changes in outstanding licenses, shall be the same amount that is established

in this code for a resident license of the same type. If the applicant's state, territory of the United States, commonwealth, or Canadian province of residence has fees for any nonresident insurance license greater than for a like resident license, the commissioner may charge a fee equal to the amount a California resident would be required to pay to obtain a like license for a like term in the applicant's state, territory of the United States, commonwealth, or Canadian province of residence.

~~The~~

(b) The fee for filing an application for a nonresident limited lines license described in Section 1639, and renewal thereof or changes in outstanding licenses, shall be the same amount that is established in this code for a resident ~~fire and property broker-agent license or a resident~~ casualty broker-agent license. This section shall not be construed to require a countersignature on a policy or contract, or the payment of a countersignature fee.

SEC. 46. Section 1751 of the Insurance Code is amended to read:

1751. The commissioner shall require, in advance, a fee for filing the following documents:

(a) Application for registration of change in membership of a copartnership licensed as any of the following:

(1) ~~Fire and casualty~~ Casualty broker-agent, fifty-six dollars (\$56).

(2) ~~Property broker-agent~~, fifty-six dollars (\$56).

~~(2)~~

(3) Life agent, resident, forty-eight dollars (\$48).

~~(3)~~

(4) Life agent, nonresident, fifty-three dollars (\$53).

~~(4)~~

(5) Personal lines broker-agent, fifty-six dollars (\$56).

(b) Notice for adding or removing from any life agent's, ~~fire and property broker-agent's~~, casualty broker-agent's, or personal lines broker-agent's license issued to an organization the name of any natural person named thereon, sixteen dollars (\$16).

(c) First amendment to an application, eight dollars (\$8); a second and each subsequent amendment to an application, sixteen dollars (\$16).

(d) Original application to be given the qualifying examination for a license of a ~~fire and property~~, casualty, or personal lines

1 licensee, twenty-seven dollars (\$27) for each person to be
2 examined.

3 (e) Original application to be given the qualifying examination
4 for a license of a life licensee, twenty-seven dollars (\$27) for each
5 person to be examined.

6 (f) Application for reexamination for any of the licenses
7 mentioned in this section, twenty-seven dollars (\$27) for each
8 person to be reexamined.

9 (g) Application which includes a request for a certificate of
10 convenience pursuant to Article 8 (commencing with Section
11 1685), twenty dollars (\$20) in addition to, and not in lieu of, fees
12 otherwise required.

13 (h) Application or request for approval of a true or fictitious
14 name pursuant to Section 1724.5, thirty dollars (\$30), except that
15 there shall be no fee when the name is contained in an original
16 application.

17 (i) "A ratification of appointments of agents" whereby the
18 surviving insurer in a merger or consolidation assumes
19 responsibility for all agents then lawfully appointed for one of the
20 constituent insurers and makes each its agent, one hundred three
21 dollars (\$103).

22 (j) An application or request for approval of:

23 (1) A training course pursuant to Section 1691, except when
24 filed by a degree-conferring college or university, a public
25 educational institution, or by a private nonprofit educational
26 institution, one hundred three dollars (\$103).

27 (2) An arrangement whereby an insurer may qualify certificate
28 of convenience holders pursuant to Section 1691 by means of an
29 approved course given on the insurer's behalf by a school or
30 organization other than itself, fifty-five dollars (\$55).

31 (k) A bond, pursuant to Article 5 (commencing with Section
32 1662) or Section 1760.5 or 1765, except when the bond constitutes
33 part of an original application filing, sixteen dollars (\$16).

34 (l) An application or request for clearance and cancellation
35 notice of a current licensee of record, sixteen dollars (\$16).

36 (m) An amended action notice pursuant to subdivision (e) of
37 Section 1704, five dollars (\$5).

38 SEC. 47. Section 1751.3 of the Insurance Code is amended to
39 read:

1751.3. The commissioner shall require sixteen dollars (\$16) in advance as a fee for filing each notice of appointment or each notice of termination pursuant to Section 1707 of any of the following:

(a) A ~~fire and~~ casualty broker-agent to act as an insurance agent.

(b) A *property broker-agent to act as an insurance agent.*

~~(b)~~

(c) A life agent.

~~(e)~~

(d) A travel insurance agent.

~~(d)~~

(e) A ~~fire and~~ casualty broker-agent to act as an insurance solicitor.

(f) A *property broker-agent to act as an insurance solicitor.*

SEC. 48. Section 1755 of the Insurance Code is amended to read:

1755. That license shall be applied for and renewed in the same manner as is provided in this chapter for a licensee to act as a ~~fire and~~ *property broker-agent or a* casualty broker-agent, except that an applicant for a limited license as a travel insurance agent need not pass a qualifying examination, and that the fee for filing an application shall be sixteen dollars (\$16) for each year or fraction thereof in the term of the license applied for.

SEC. 49. Section 1757.2 of the Insurance Code is amended to read:

1757.2. A limited license shall be applied for and renewed in the same manner as is provided in this chapter for a licensee to act as a ~~fire and~~ *property broker-agent or a* casualty broker-agent, except that an applicant for a limited license as a cargo shipper's agent need not pass a qualifying examination and is exempt from the prelicensing and continuing education requirements. The fee for filing an application shall be nineteen dollars (\$19) for each year or fraction thereof of the term of the license applied for.

SEC. 50. Section 1758.2 of the Insurance Code is amended to read:

1758.2. Any authority granted pursuant to the provisions of this article shall be effective only while a permanent underlying life agent's license *and registration in accordance with the rules of the United States Securities and Exchange Commission or the Financial Industry Regulatory Authority* remains in full force and

1 effect. The provisions of subdivision (b) of Section 1704 relating
2 to the inactivation and reactivation of the underlying life agent's
3 license, and the renewal thereof, shall apply to any authority issued
4 pursuant to this article, except that references to agency
5 appointments and terminations shall relate only to the underlying
6 life agent's license. Such authority may be revoked, suspended,
7 or otherwise affected for the same reasons and by the same
8 procedures as a life agent's license.

9 SEC. 51. Section 1758.3 of the Insurance Code is amended to
10 read:

11 1758.3. The commissioner shall not grant authority to transact
12 variable contracts unless the life agent or applicant furnishes proof
13 that he or she is registered to sell securities in accordance with the
14 rules of the United States Securities and Exchange Commission
15 or the Financial Industry Regulatory Authority. *Any authority*
16 *granted to a life agent to transact variable contracts shall*
17 *immediately terminate upon the life agent no longer being*
18 *registered to sell securities in accordance with the rules of the*
19 *United States Securities and Exchange Commission or the*
20 *Financial Industry Regulatory Authority.*

21 SEC. 52. Section 1758.87 of the Insurance Code is amended
22 to read:

23 1758.87. A rental car agent shall not do any of the following:

24 (a) Offer to sell insurance except in conjunction with, and
25 incidental to, authorized rental agreements.

26 (b) Advertise, represent, or otherwise portray itself or its
27 employees or endorsees as licensed insurers, life agents, ~~or fire~~
28 ~~and property broker-agents~~, or casualty broker-agents.

29 (c) Pay an endorsee any compensation, fee, or commission
30 dependent on the placement of insurance under the agent's license.
31 Nothing in this code shall prohibit the payment of a
32 "performance-related incentive." For the purposes of this
33 subdivision, a "performance-related incentive" is not a commission
34 as otherwise defined. A "performance-related incentive" is money
35 or other tangible or intangible items of value paid or given to any
36 endorsee of the licensee which is not based solely on the offering
37 or selling of the insurance products listed in Section 1758.85.

38 SEC. 53. Section 1758.98 of the Insurance Code is amended
39 to read:

1 1758.98. Under the authority of the credit insurance agent
2 license, a credit insurance agent shall not do any of the following:

3 (a) Offer to sell insurance except in conjunction with, and
4 incidental to, a loan or extension of credit.

5 (b) Advertise, represent, or otherwise portray itself or its
6 employees, agents, or endorsees as licensed insurers, life agents,
7 ~~or fire and property broker-agent, or~~ casualty broker-agents.

8 (c) Pay any unlicensed person any compensation, fee, or
9 commission dependent on the placement of insurance under the
10 agent's license. Nothing in this subdivision shall prohibit
11 production payments or incentive payments to an endorsee.

12 SEC. 54. Section 1765.3 of the Insurance Code is amended to
13 read:

14 1765.3. Any natural person applying for a license to act as a
15 surplus line broker shall prove his or her competency by showing
16 he or she holds an existing license to act as a ~~fire and property~~
17 ~~broker-agent or~~ casualty broker-agent, which requires passing the
18 qualifying examination for such an insurance broker's license.

19 SEC. 55. Section 10236.1 of the Insurance Code is amended
20 to read:

21 10236.1. (a) Benefits under individual long-term care insurance
22 policies issued before new premium rate schedules are approved
23 under Section 10236.11 shall be deemed reasonable in relation to
24 premiums if the expected loss ratio is at least 60 percent, calculated
25 in a manner that provides for adequate reserving of the long-term
26 care insurance risk.

27 (b) For individual long-term care insurance policies issued
28 before new premium rate schedules are approved under Section
29 10236.11, and for which rate revisions are filed on or after January
30 1, 2010, benefits shall be deemed reasonable in relation to the
31 premium if the premium rate schedules have a lifetime expected
32 loss ratio of at least 60 percent of the premium scale in effect on
33 December 31, 2009, plus 70 percent of premium increases filed
34 on or after January 1, 2010, calculated in a manner that provides
35 for adequate reserving of the long-term care insurance risk.

36 (c) In evaluating the expected loss ratio, due consideration shall
37 be given to all relevant factors, including the following:

38 (1) Statistical credibility of incurred claims experience and
39 earned premiums.

40 (2) The period for which rates are computed to provide coverage.

- 1 (3) Experienced and projected trends.
- 2 (4) Concentration of experience within early policy duration.
- 3 (5) Expected claim fluctuation.
- 4 (6) Experience refunds, adjustments, or dividends.
- 5 (7) Renewability features.
- 6 (8) All appropriate expense factors.
- 7 (9) Interest.
- 8 (10) Experimental nature of the coverage.
- 9 (11) Policy reserves.
- 10 (12) Mix of business by risk classification.
- 11 (13) Product features, such as long elimination periods, high
- 12 deductibles, and high maximum limits.

13 (d) Notwithstanding any other provision of this section, for rate
14 revisions filed on or after January 1, 2010, the commissioner may
15 approve an application for a rate revision based on less than a 70
16 percent loss ratio, but not less than a 60 percent loss ratio, for the
17 portion attributable to the rate increase if an insurer can
18 demonstrate that the rates are necessary to protect the financial
19 condition of the insurer, including *avoidance of* further reductions
20 in capital and surplus.

21 SEC. 56. Section 10785 of the Insurance Code is amended to
22 read:

23 10785. (a) A disability insurer that covers hospital, medical,
24 or surgical expenses under an individual health benefit plan as
25 defined in subdivision (a) of Section 10198.6 may not, with respect
26 to a federally eligible defined individual desiring to enroll in
27 individual health insurance coverage, decline to offer coverage to,
28 or deny enrollment of, the individual or impose any preexisting
29 condition exclusion with respect to the coverage.

30 (b) For purposes of this section, “federally eligible defined
31 individual” means an individual who, as of the date on which the
32 individual seeks coverage under this section, meets all of the
33 following conditions:

34 (1) Has had 18 or more months of creditable coverage, and
35 whose most recent prior creditable coverage was under a group
36 health plan, a federal governmental plan maintained for federal
37 employees, or a governmental plan or church plan as defined in
38 the federal Employee Retirement Income Security Act of 1974
39 (29 U.S.C. Sec. 1002).

1 (2) Is not eligible for coverage under a group health plan,
2 Medicare, or Medi-Cal, and does not have other health insurance
3 coverage.

4 (3) Was not terminated from his or her most recent creditable
5 coverage due to nonpayment of premiums or fraud.

6 (4) If offered continuation coverage under COBRA or
7 Cal-COBRA, has elected and exhausted that coverage.

8 (c) Every disability insurer that covers hospital, medical, or
9 surgical expenses shall comply with applicable federal statutes
10 and regulations regarding the provision of coverage to federally
11 eligible defined individuals, including any relevant application
12 periods.

13 (d) A disability insurer shall offer the following health benefit
14 plans under this section that are designed for, made generally
15 available to, are actively marketed to, and enroll, individuals:

16 (1) either the two most popular products as defined in Section
17 300gg-41(c)(2) of Title 42 of the United States Code and Section

18 148.120(c)(2) of Title 45 of the Code of Federal Regulations or

19 (2) the two most representative products as defined in Section
20 300gg-41(c)(3) of the United States Code and Section

21 148.120(c)(3) of Title 45 of the Code of Federal Regulations, as
22 determined by the insurer in compliance with federal law. An

23 insurer that offers only one health benefit plan to individuals,
24 excluding health benefit plans offered to Medi-Cal or Medicare

25 beneficiaries, shall be deemed to be in compliance with this chapter
26 if it offers that health benefit plan contract to federally eligible

27 defined individuals in a manner consistent with this chapter.

28 (e) (1) In the case of a disability insurer that offers health benefit
29 plans in the individual market through a network plan, the insurer
30 may do both of the following:

31 (A) Limit the individuals who may be enrolled under that
32 coverage to those who live, reside, or work within the service area
33 for the network plan.

34 (B) Within the service area covered by the health benefit plan,
35 deny coverage to individuals if the insurer has demonstrated to the
36 commissioner that the insured will not have the capacity to deliver
37 services adequately to additional individual insureds because of
38 its obligations to existing group policyholders, group
39 contractholders and insureds, and individual insureds, and that the
40 insurer is applying this paragraph uniformly to individuals without

1 regard to any health status-related factor of the individuals and
2 without regard to whether the individuals are federally eligible
3 defined individuals.

4 (2) A disability insurer, upon denying health insurance coverage
5 in any service area in accordance with subparagraph (B) of
6 paragraph (1), may not offer health benefit plans through a network
7 in the individual market within that service area for a period of
8 180 days after the coverage is denied.

9 (f) (1) A disability insurer may deny health insurance coverage
10 in the individual market to a federally eligible defined individual
11 if the insurer has demonstrated to the commissioner both of the
12 following:

13 (A) The insurer does not have the financial reserves necessary
14 to underwrite additional coverage.

15 (B) The insurer is applying this subdivision uniformly to all
16 individuals in the individual market and without regard to any
17 health status-related factor of the individuals and without regard
18 to whether the individuals are federally eligible defined individuals.

19 (2) A disability insurer, upon denying individual health
20 insurance coverage in any service area in accordance with
21 paragraph (1), may not offer that coverage in the individual market
22 within that service area for a period of 180 days after the date the
23 coverage is denied or until the insurer has demonstrated to the
24 commissioner that the insurer has sufficient financial reserves to
25 underwrite additional coverage, whichever is later.

26 (g) The requirement pursuant to federal law to furnish a
27 certificate of creditable coverage shall apply to health benefits
28 plans offered by a disability insurer in the individual market in the
29 same manner as it applies to an insurer in connection with a group
30 health benefit plan policy or group health benefit plan contract.

31 (h) A disability insurer shall compensate a life agent ~~or fire and,~~
32 *property broker-agent*, or casualty broker-agent whose activities
33 result in the enrollment of federally eligible defined individuals
34 in the same manner and consistent with the renewal commission
35 amounts as the insurer compensates life agents ~~or fire and,~~ *property*
36 *broker-agents*, or casualty broker-agents for other enrollees who
37 are not federally eligible defined individuals and who are
38 purchasing the same individual health benefit plan.

39 (i) Every disability insurer shall disclose as part of its COBRA
40 or Cal-COBRA disclosure and enrollment documents, an

1 explanation of the availability of guaranteed access to coverage
2 under the Health Insurance Portability and Accountability Act of
3 1996, including the necessity to enroll in and exhaust COBRA or
4 Cal-COBRA benefits in order to become a federally eligible
5 defined individual.

6 (j) No disability insurer may request documentation as to
7 whether or not a person is a federally eligible defined individual
8 other than is permitted under applicable federal law or regulations.

9 (k) This section shall not apply to coverage defined as excepted
10 benefits pursuant to Section 300gg(c) of Title 42 of the United
11 States Code.

12 (l) This section shall apply to policies or contracts offered,
13 delivered, amended, or renewed on or after January 1, 2001.

14 SEC. 57. Section 11691 of the Insurance Code is amended to
15 read:

16 11691. (a) (1) In order to provide protection to the workers
17 of this state in the event that the insurers issuing workers'
18 compensation insurance to employers fail to pay compensable
19 workers' compensation claims when due, except in the case of the
20 State Compensation Insurance Fund, every insurer desiring
21 admission to transact workers' compensation insurance, or workers'
22 compensation reinsurance business, or desiring to reinsure the
23 injury, disablement, or death portions of policies of workers'
24 compensation insurance under the class of disability insurance
25 shall, as a prerequisite to admission, or ability to reinsure the injury,
26 disablement, or death portion of policies of workers' compensation
27 insurance under the class of disability insurance, deposit cash
28 instruments or approved interest-bearing securities or approved
29 stocks readily convertible into cash, investment certificates, or
30 share accounts issued by a savings and loan association doing
31 business in this state and insured by the Federal Deposit Insurance
32 Corporation, certificates of deposit, or savings deposits in a bank
33 licensed to do business in this state, *or is either domiciled in and*
34 *has a principal place of business in this state, or is a national bank*
35 *association with a trust office located in this state*, or approved
36 letters of credit that perform in material respects as any other
37 security allowable as a form of deposit for purposes of a workers'
38 compensation deposit and that meet the standard set forth in Section
39 922.5, or approved securities registered with a qualified depository
40 located in a reciprocal state as defined in Section 1104.9, with that

1 deposit to be in an amount and subject to any exceptions as set
2 forth in this article. The deposit shall be made from time to time
3 as demanded by the commissioner and may be made with the
4 Treasurer, or a bank or savings and loan association authorized to
5 engage in the trust business pursuant to Division 1 (commencing
6 with Section 99) or Division 2 (commencing with Section 5000)
7 of the Financial Code, or a trust company. A deposit of securities
8 registered with a qualified depository located in a reciprocal state
9 as defined in Section 1104.9 may only be made in a bank or savings
10 and loan association authorized to engage in the trust business
11 pursuant to Division 1 (commencing with Section 99) or Division
12 2 (commencing with Section 5000) of the Financial Code, or a
13 trust company, licensed to do business and located in this state
14 that is a qualified custodian as defined in paragraph (1) of
15 subdivision (a) of Section 1104.9 and that maintains deposits of
16 at least seven hundred fifty million dollars (\$750,000,000). The
17 deposit shall be made subject to the approval of the commissioner
18 under those rules and regulations that he or she shall promulgate.
19 The deposit shall be maintained at a deposit value specified by the
20 commissioner, but in any event no less than one hundred thousand
21 dollars (\$100,000), nor less than the reserves required of the insurer
22 to be maintained under any of the provisions of Article 1
23 (commencing with Section 11550) of Chapter 1 ~~of Part 3 of~~
24 ~~Division 2~~, relating to loss reserves on workers' compensation
25 business of the insurer in this state, nor less than the sum of the
26 amounts specified in subdivision (a) of Section 11693, whichever
27 is greater. The deposit shall be for the purpose of paying
28 compensable workers' compensation claims under policies issued
29 by the insurer or reinsured by the admitted reinsurer and expenses
30 as provided in Section 11698.02, in the event the insurer or
31 reinsurer fails to pay those claims when they come due. If the
32 insurer providing the deposit is domiciled in a state where a state
33 statute, regulation, or court decision provides that, with respect to
34 covered claims within the deductible amount that are paid by a
35 guarantee association after the entry of an order of liquidation
36 under large deductible workers' compensation policies, any part
37 of the reimbursement proceeds, other than the reasonable expenses
38 of the receiver related to treatment of deductible policy
39 arrangements of insurance companies in liquidation, owed by
40 insureds on those deductible amounts, whether paid directly or

1 through a draw of collateral, are general assets of the estate, then
2 the amount of the insurer's deposit pursuant to this article shall be
3 calculated based on the gross amount of that insurer's liabilities
4 for loss and loss adjustment expenses under those policies without
5 regard to the deductible, and those reserves shall not be reduced
6 by any collateral or reimbursement obligations insureds were
7 required to provide under those policies.

8 ~~Nothing~~

9 (2) *Nothing* in this section shall require that the deposit be
10 calculated based on gross amounts of liabilities described above
11 if the domiciliary state does not have an existing statute, regulation,
12 or court decision providing that the reimbursement proceeds
13 described above are general assets of the estate.

14 (b) Each insurer or reinsurer desiring to have the ability to
15 reinsure the injury, disablement, or death portions of policies of
16 workers' compensation under the class of disability insurance shall
17 provide prior notice to the commissioner, in the manner and form
18 prescribed by the commissioner of its intent to reinsure that
19 insurance. In the event of late notice, a late filing fee shall be
20 imposed on the reinsurer pursuant to Section 924 for failure to
21 notify the commissioner of its intent to reinsure workers'
22 compensation insurance.

23 (c) If the deposit required by this section is not made with the
24 Treasurer, then the depositor shall execute a trust agreement in a
25 form approved by the commissioner between the insurer, the
26 institution in which the deposit is made or, where applicable, the
27 qualified custodian of the deposit, and the commissioner, that
28 grants to the commissioner the authority to withdraw the deposit
29 as set forth in Sections 11691.2, 11696, 11698, and 11698.3. The
30 insurer shall also execute and deliver in duplicate to the
31 commissioner a power of attorney in favor of the commissioner
32 for the purposes specified herein, supported by a resolution of the
33 depositor's board of directors. The power of attorney and director's
34 resolution shall be on forms approved by the commissioner, shall
35 provide that the power of attorney cannot be revoked or withdrawn
36 without the consent of the commissioner, and shall be
37 acknowledged as required by law.

38 (d) (1) The commissioner shall require payment in advance of
39 fees for the initial filing of a trust agreement with a bank, savings
40 and loan association, or trust company on deposits made pursuant

1 to subdivision (a); for each amendment, supplement, or other
2 change to the deposit agreement; for receiving and processing
3 deposit schedules pursuant to this section; and for each withdrawal,
4 substitution, or any other change in the deposit. The fees shall be
5 set forth in the department's Schedule of Fees and Charges.

6 (2) The commissioner shall require payment in advance of a
7 fee for the initial filing of each letter of credit utilized pursuant to
8 subdivision (a). In addition, the commissioner shall require
9 payment in advance of a fee for each amendment of a letter of
10 credit. The fees shall be set forth in the department's Schedule of
11 Fees and Charges.

12 (e) Any workers' compensation insurer that deposits cash or
13 cash equivalents pursuant to this section shall be entitled to a
14 prompt refund of those deposits in excess of the amount determined
15 by the commissioner pursuant to subdivision (a). The commissioner
16 shall cause to be refunded any deposits determined by the
17 commissioner to be in excess of the amount required by subdivision
18 (a) within 30 days of that determination. In the alternative, an
19 insurer may use any excess deposit funds to offset a demand by
20 the commissioner to increase its deposit due to the failure of a
21 reinsurer to make a deposit pursuant to this section.

22 (f) (1) ~~As of January 1, 2003, an~~ An admitted insurer reinsuring
23 business covered in this article (hereafter referred to as reinsurer)
24 shall identify to the commissioner, in a form prescribed by the
25 commissioner, amounts deposited for credit in the name of each
26 ceding insurer.

27 (2) ~~Beginning January 1, 2005, all~~ All reinsurance agreements
28 covering claims and obligations under business covered by this
29 article, and allowable for purposes of granting a ceding carrier a
30 deposit credit, shall include a provision granting the commissioner,
31 in the event of a delinquency proceeding, receivership, or
32 insolvency of a ceding insurer, any sums from a reinsurer's deposit
33 that are necessary for the commissioner to pay those reinsured
34 claims and obligations, or to ensure their payment by the California
35 Insurance Guarantee Association, deemed by the commissioner
36 due under the reinsurance agreement, upon failure of the reinsurer
37 for any reason to make payments under the policy of reinsurance.
38 The commissioner shall give 30 days' notice prior to drawing upon
39 these funds of an intent to do so. Notwithstanding the
40 commissioner's right to draw on these funds, the reinsurer shall

1 otherwise retain its right to determine the validity of those claims
2 and obligations and to contest their payment under the reinsurance
3 agreement. Prior to a reinsurer's deposit being drawn upon, in
4 whole or in part, by the department, the department shall provide
5 a reinsurer with an explanation of procedures that a reinsurer may
6 use to explain to the department why the use of the reinsurer's
7 deposit may not be appropriate under the reinsurance agreement.

8 (3) No reinsurer entering into a contract identified in paragraph
9 (2), beginning on or after January 1, 2005, may cede claims or
10 obligations assumed from a ceding insurer unless the deposit
11 securing the ceded claims or obligations is governed by paragraph
12 (2) or, upon approval of the commissioner, would secure the ceded
13 claims or obligations in all material respects and in the same
14 manner as a deposit identified in paragraph (2) above.

15 (4) All sums received from the reinsurer by the commissioner
16 for those claims paid by the California Insurance Guarantee
17 Association shall be held separate and apart from and not included
18 in the general assets of the insolvent insurer, and shall be
19 transferred to the California Insurance Guarantee Association upon
20 receipt by the commissioner. In the event of a final judgment or
21 settlement adverse to the drawing of funds by the commissioner
22 pursuant to paragraph (2) or (3), the California Insurance Guarantee
23 Association shall repay funds it obtained to pay covered claims
24 and shall, if necessary, either levy a surcharge as needed or seek
25 legislative approval to levy the surcharge if the California Insurance
26 Guarantee Association is already levying the maximum surcharge
27 permissible under law.

28 (g) If a reinsurer has not maintained deposits as required by
29 subdivision (a) in amounts equal to the amounts of deposit credits
30 claimed by its ceding insurers, the commissioner, after notifying
31 the reinsurer and its ceding insurers of the deposit shortfall and
32 allowing 15 days from the date of the notice for the deposit shortfall
33 to be corrected, may disallow all or a portion of the reserve credits
34 claimed by the ceding insurers. A ceding insurer disallowed a
35 reserve credit pursuant to this provision shall immediately make
36 the deposit required by this section.

37 (h) For interest-bearing securities that are debt securities and
38 include principal payment features prior to maturity that are utilized
39 pursuant to subdivision (a), all principal payments received ~~must~~
40 *shall* be retained as part of the deposit.

1 (i) Withdrawal of any amount of the deposit required under
2 subdivision (a) that results in a reduction of the required amount
3 of the deposit may only occur with the prior written consent of the
4 commissioner.

5 SEC. 58. Section 12815 of the Insurance Code is amended to
6 read:

7 12815. (a) An obligor who is not a seller shall possess a vehicle
8 service contract provider license. A vehicle service contract
9 provider license shall be applied for and maintained, and its holder
10 shall be subject to disciplinary action, as if it were a ~~fire and~~
11 ~~property broker-agent or~~ casualty broker-agent license, with the
12 following exceptions:

13 (1) An applicant for a vehicle service contract provider license
14 is exempt from having to satisfy prelicensing and continuing
15 education requirements, and from having to pass a qualifying exam.

16 (2) The fee to obtain or renew a vehicle service contract provider
17 license shall be the same as that to obtain or renew a certificate of
18 authority to operate a motor club.

19 (b) A service contract administrator shall be licensed as a ~~fire~~
20 ~~and property broker-agent or~~ casualty broker-agent.

21 SEC. 59. Section 12938 of the Insurance Code is amended to
22 read:

23 12938. Notwithstanding any other provision of law, the
24 department shall make available for public inspection and publish
25 on its ~~website~~ *Internet Web site* all of the information described
26 in subdivisions (a) and (b). This information shall be maintained
27 in a current, up-to-date condition. All identifying and privileged
28 information regarding individual policyholders shall be redacted
29 from documents available for public inspection and on the ~~website~~
30 *Internet Web site*.

31 (a) All fully executed stipulations, orders, decisions, settlements,
32 or other forms of agreement resolving market conduct
33 examinations, whether the examinations were finalized, terminated,
34 or suspended, that pertain to unfair or deceptive practices in the
35 business of insurance as defined in Section 790.03.

36 (b) (1) Every adopted report of ~~an~~ *a market conduct*
37 examination of unfair or deceptive practices in the business of
38 insurance as defined in Section 790.03 that is adopted as filed, or
39 as modified or corrected, by the commissioner pursuant to Section
40 734.1.

1 (2) The commissioner upon adopting the report shall ~~by certified~~
2 ~~United States mail transmit a copy of the report to the examined~~
3 ~~insurer's designated agent for service of process transmit a copy~~
4 *of the report, either electronically or by certified United States*
5 *mail, to a representative that the examined insurer designated by*
6 *that insurer to receive the report, or in the case of an examination*
7 *of more than one insurer in an insurer group, to a single*
8 *representative of the group designated to receive the report on*
9 *behalf of all examined insurers. Within 10 20 business days after*
10 *the transmittal, the examined insurer may submit comments to the*
11 *commissioner relating to the adopted report. The comments shall*
12 *be in a form and length as provided by regulation.*

13 (3) ~~Ten~~ Twenty business days after the transmittal the
14 commissioner shall publish on the department's ~~website~~ *Internet*
15 *Web site* the adopted report and any comments submitted by the
16 examined insurer unless a court of competent jurisdiction has
17 stayed the publication of the report.

18 (c) This section may not be construed to require the disclosure
19 of company workpapers or other company documents discovered
20 during the course of an examination or any preliminary report of
21 the examination, except as otherwise permitted by law.